

CHAPTER NO. 361

HOUSE BILL NO. 802

By Representatives Armstrong, Mike Turner

Substituted for: Senate Bill No. 1190

By Senator Williams, Burchett

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 82; Title 65 and Title 68, to enact the Landfill Methane Development Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 28, is amended by adding Sections 2 through 8 of this act as a new part.

SECTION 2.

(a) This act shall be known and may be cited as the "Landfill Methane Development Act."

(b) It is recognized by the general assembly that the provision of dependable and economical sources of energy is vital to the health, welfare and economic well-being of the citizens and residents of the state and that one of the primary sources of energy in this state is natural gas. The general assembly further recognizes world supplies of natural gas are limited and that the market for natural gas has undergone major changes in recent years due to increasing demand. It is recognized by the general assembly that the primary constituent of natural gas is methane, and that methane is generated by the natural decomposition of materials deposited in solid waste landfills. Landfill methane is produced in landfills together with other gaseous materials but the methane may be extracted, treated, and sold as a substitute for natural gas. It is also recognized by the general assembly that if not utilized for a natural gas substitute or other energy or commercial use, the landfill methane may constitute a pollutant if released into the atmosphere and in certain instances under state and federal environmental laws the landfill methane must be collected and destroyed and the commercial value of the landfill methane would then be wasted. In order to ensure that all persons have the flexibility and power to compete for and obtain methane from landfill gas and treat it for substitution for natural gas on terms which will result in continuing availability of both natural gas and landfill methane at reasonable rates to the citizens and residents of the state and to encourage the reduction or elimination of atmospheric pollution that may occur if the landfill methane were allowed to be introduced into the atmosphere, it is the intent of the general assembly by this act to:

(1) Authorize any person to finance, acquire, own, operate, lease and dispose of rights, titles and interest of every kind and nature in facilities to produce and treat methane produced from landfill properties located within the state as a substitute for natural gas;

(2) Allow any pipeline corporation subject to the jurisdiction of the Tennessee regulatory authority to transport landfill methane gas either alone or mixed with natural gas; and

(3) Authorize any person to contract for the purchase of supplies of landfill methane useable in lieu of natural gas, and transport it by pipeline from any supplier located inside or outside the state either alone or mixed with natural gas.

(c) This act shall be liberally construed in conformity with such intent, it being hereby determined and declared that the means provided by this part are needed to provide for the continued availability to state citizens and residents of natural gas or substitutes for natural gas at reasonable rates.

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Landfill methane" is the methane gas constituent of naturally-occurring emissions in gaseous form emanating from any landfill, whether such landfill is in current operation accepting additional fill material or is closed and not accepting any additional fill material, and whether or not any such landfill has or is required to have any collection system for the collection of landfill gas including the landfill methane component thereof. "Landfill methane" means the methane component of landfill gas both before and after such component may be extracted from the landfill gas, as the context may require.

(2) "Person" means any person, firm, corporation or other legal entity of any kind, including this state, every county in this state, and every municipality in this state.

SECTION 4. Any person, with the consent of the owner of any landfill where landfill methane may be produced, and in compliance with all applicable laws, may construct and operate a facility for extracting, purifying, dehydrating, or otherwise treating landfill methane, for the purpose of preparing such landfill methane for transportation and sale to any person for use as a substitute for natural gas. No person constructing or operating any such facility or transporting or selling any landfill methane produced or treated in any such facility to any other person shall be considered to be engaged in the retail distribution of natural gas to the maximum extent of operations, transportation, or sale of all landfill methane volumes produced, transported, and sold, wherever such volumes may be sold and delivered, and whether or not such landfill methane is combined or intermixed after production with natural gas for transportation or sale.

SECTION 5. No person desiring to construct or operate a facility for gathering, extracting, purifying, dehydrating, or otherwise treating landfill methane shall be required to obtain any certificate of public convenience and necessity for such construction or operation of such facility from the Tennessee regulatory authority. Neither the rates and charges between the parties for construction and operation of any such facility, nor the sales price of any landfill methane produced or treated, shall be subject to economic regulation by the Tennessee regulatory authority or any other agency of the state; provided, that the construction and operation of any facility for such operations shall be subject to all other applicable laws.

SECTION 6. The rates and charges for transportation by pipeline of landfill methane, either alone or in combination with natural gas, and the construction of facilities for the transportation by pipeline of landfill methane whether alone or in combination with natural gas, shall be subject to the jurisdiction of the Tennessee regulatory authority to the same extent as the rates and charges, and the construction of facilities for, pipeline transportation of natural gas. No person that is exempt from regulation by the Tennessee regulatory authority in the transportation of natural gas shall become subject to such regulation by operation of this section or the transportation by such person of landfill methane either alone or in combination with natural gas. No person shall be required to transport landfill methane by pipeline in combination with natural gas if the landfill methane tendered for transportation does not meet quality specifications reasonably required by such person for pipeline transportation of natural gas. The Tennessee regulatory authority shall expedite the disposition of any proceeding brought concerning any rate, charge, or construction of facilities for transportation by pipeline of landfill methane.

SECTION 7. Notwithstanding the provisions of any other law, landfill methane may be transported by any pipeline corporation located wholly in this state or otherwise subject to the regulatory jurisdiction of the Tennessee regulatory authority without regard to where the landfill methane may have been produced or extracted or is to be delivered within the state and without regard to the size or classification or nature of any customer purchasing or receiving any landfill methane. Such transportation may be provided by an intrastate pipeline corporation by transporting landfill methane either alone or in combination with natural gas.

SECTION 8. Nothing in this act shall be interpreted to require any natural gas local distribution system to purchase or transport any landfill produced methane gas.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 24, 2005



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of June 2005



PHIL BREDESEN, GOVERNOR